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The rule of law at the national and international levels**Letter dated 27 January 2017 from the Permanent Representatives of Austria and Czechia to the United Nations addressed to the Secretary-General**

We have the honour to transmit, as an annex to the present letter, information on the Declaration on Jurisdictional Immunities of State-owned Cultural Property and respectfully request that the document, together with the text of the Declaration, be circulated for the purposes of information among the States Members of the United Nations.

The Declaration was an initiative of Austria and the Czech Republic, subsequently joined by a number of other States. Its principal aim is to acknowledge the customary nature of norms protecting certain categories of State-owned property while on cross-border loan for public display.

In view of the legal nature of this issue, we believe it would be appropriate to circulate the present letter and its annex as a document of the General Assembly, under agenda item 84.

(Signed) Jan Kickert
Ambassador

Permanent Representative of Austria to the United Nations

(Signed) Marie Chatardová
Ambassador

Permanent Representative of the Czech Republic to the United Nations



Annex to the letter dated 27 January from the Permanent Representatives of Austria and Czechia to the United Nations addressed to the Secretary-General

Information on the Declaration on Jurisdictional Immunities of State-owned Cultural Property

The Declaration on Jurisdictional Immunities of State-owned Cultural Property is based on the common experience of Austria and the Czech Republic, as well as other States, in relation to the difficulties encountered in connection with cross-border exhibitions of State-owned cultural property and with efforts of private parties to obtain a court order seizing such property.

The aim of the Declaration is to increase the protection of certain categories of State-owned property while on cross-border loan for public display. Specifically, the Declaration acknowledges the customary nature of the pertinent provisions of the United Nations Convention on Jurisdictional Immunities of States and Their Property (2004), according to which certain categories of State-owned property (cultural heritage, State archives and property forming part of an exhibition of objects of scientific, cultural or historical interest) in another State are protected against any form of seizure. The Declaration was prepared as a legally non-binding document to express a common understanding (*opinio iuris*) between the signatories.

The Declaration was prepared within the framework of the Committee of Legal Advisers on Public International Law of the Council of Europe. Initially, the Declaration was jointly signed by the Minister for Foreign Affairs of Czechia and the Federal Minister for European and International Affairs of Austria in Brussels on 18 November 2013. The Declaration has since been signed by 16 other States.⁶ The Secretariat of the Council of Europe (Treaty Office) serves as the depositary of the Declaration (information on the Declaration, including the list of signatories, is available at www.coe.int/cahdi).

The text of the Declaration is reproduced in the enclosure.

⁶ Latvia (8 January 2014), Slovakia (28 February 2014), Georgia (4 June 2014), Romania (28 August 2014), Estonia (17 March 2015), Albania (10 April 2015), Netherlands (15 April 2015), France (28 April 2015), Armenia (25 June 2015), Belgium (26 August 2015), Belarus (14 September 2015), Luxembourg (30 October 2015), Ireland (1 April 2016), Russian Federation (20 May 2016), Hungary (18 August 2016) and Finland (14 September 2016).

Enclosure

Declaration on Jurisdictional Immunities of State-owned Cultural Property

We, the undersigned,

Desirous to strengthen international cooperation in the field of culture;

Recognizing that the exchange of cultural property significantly contributes to the mutual understanding of nations;

Resolved to promote the mobility of State-owned cultural property through temporary cross-border loans for public display;

Aware of the need to reaffirm the international legal framework applicable to State-owned cultural property on public display in another State on the basis of the customary international law on State immunity, as codified in the United Nations Convention on Jurisdictional Immunities of States and Their Property of 2004 (hereinafter the "Convention");

Jointly declare the following:

In accordance with customary international law as codified in the Convention

- Property of a State forming part of its cultural heritage or its archives or forming part of an exhibition of objects of scientific, cultural or historical interest, and not placed or intended to be placed on sale cannot be subject to any measure of constraint, such as attachment, arrest or execution, in another State; and
- Therefore, such measures of constraint can only be taken if immunity is expressly waived for a clearly specified property by the competent national authorities of the State owning the property or if the property has been allocated or earmarked by that State for the satisfaction of the claim which is the object of the proceeding concerned.

In this context, we reaffirm our commitment to the rules of customary international law on State-owned cultural property as outlined above, in relation to any dispute that may arise in connection with cross-border loans of such property intended for public display.

In witness whereof the undersigned, being duly authorized thereto, have signed the Declaration.